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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------------|---------------------|------------------|
| 10/088,983 | 06/04/2002 | Uta Szenekis | D078 1170.1 | 6630 |
| 7590 11/25/2003 | | | | |
| Womble Carlyle Sandridge & Rice PO Box 7037 Atlanta, GA 30357-0037 | | EXAMINER COLE, ELIZABETH M | | |
| | | ART UNIT 1771 PAPER NUMBER | | |

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/088,983 | Applicant(s) SZERREIKS ET AL. | |
| | Examiner Elizabeth M Cole | Art Unit 1771 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the limitation "or a combination thereof" in line 4 renders the claim vague and indefinite because it is not clear whether the combination refers to a combination of carbon black and metal powder, and, if so, what percent the combination would be present in, or if the combination refers to the combination of the wear layer with other layers such as the lower layer and/or the backing layer. Also in claim 1, it is not clear what is meant by EN 1081 (April 1998).
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leukel et al, U.S. Patent No. 4,770,916 in view of Berbeco, U.S. Patent No. 4,301,040 and Charlton et al, U.S. Patent No. 3,040,210. Leukel discloses a floor covering comprising a backing layer, a first electrically conductive layer, a second electrically conductive layer and a top electrically conductive layer. The claimed backing equates to the nonwoven backing layer of Leukel which is coated with an electrically conductive paint. The claimed lower layer corresponds to the second electrically conductive layer. The wear layer equates to the top layer. The second electrically conductive layer comprises electrically conductive fillers such as carbon black in an amount of about 3-

10 percent based on total solids weight, (see col. 3, lines 30-31), and Example 1 shows 32% carbon black dispersion and 9% by weight quartz powder. Leukel discloses the top layer may be a PVC or rubber covering layer which contains carbon black, (see col. 3, lines 36-44), but does not disclose the claimed amount of carbon black and does not disclose employing resins which form linoleum. Charlton et al either conventional resins employed in making linoleum may be employed in making a conductive floor covering, or other materials such as rubber and PVC may be used. See col. 3, lines 23-37. Therefore, Charlton et al teaches that conventional linoleum resins and rubber and PVC are art recognized equivalents. Therefore, it would have been obvious to one of ordinary skill in the art to have employed conventional linoleum resins rather than the rubber or PVC disclosed in Charlton motivated by the fact that PVC and rubber were art recognized equivalents of conventionally known linoleum resins. With regard to the amount of carbon black employed, Berbeco discloses that carbon black or other conductive metal particles may be incorporated into resin layers in amounts of 2-40% depending upon the desired antistatic or conductive properties. Therefore, Berbeco teaches that the amount of carbon black or metal particles is a result effective variable. Therefore, it would have been obvious to one of ordinary skill in the art to have selected the appropriate amount of conductive material to incorporate into the floor covering of Leukel through the process of routine experimentation in order to obtain a floor covering having the desired antistatic or conductive properties. With regard to the limitations regarding the thicknesses of the layers, the colors or the patterns employed, it would

have been obvious to have selected the various thicknesses, colors and patterns in order to produce a floor covering having the desired durability and appearance.


4. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leukel in view of Berbeco and Charlton as applied to claims 1-2, 5-12 above, and further in view of WO99/10592, (equivalent to US 6,462,123). Leukel differs from the claimed invention because Leukel does not teach incorporating a chemical additive for increasing conductivity to the floor covering. WO 99/10592 teaches that such additives may be added to floor covering materials in order to enhance the electrical conductivity of the floor covering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for all official faxes is (703) 872-9306. The fax number for unofficial faxes is (703) 305-5436.


Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c